

2. Sick Leave

a. Definition. Sick leave is time-off at full pay granted to employees for absences relating to personal or family illness, injury or medical care, bereavements, and child adoption (entitlements and limitations are identified below).

b. Accrual and Accumulation. Full-time employees accrue 4 hours of sick leave each full biweekly pay period or 13 days per year. There is no limit on the accumulation of sick leave.

c. Use of Sick leave. Sick leave can be charged only for absence during hours which are scheduled as part of an employee's regular tour of duty. Sick leave may be granted when the employee:

(1) is incapacitated for the performance of regular duties or lighter duties because of sickness, injury, pregnancy or childbirth;

(2) receives medical, dental or optical examinations or treatment, including periodic physical examinations for retention of status in a reserve component of the Armed Forces of the National or State Guard;

(3) provides care for a family member as a result of the family member who is incapacitated by a medical condition or attends to a family member receiving medical, dental, or optical examination or treatment;

(4) provides care for a family member with a serious health condition;

(5) makes necessary arrangements as a result of a family member's death or attends funeral of a family member;

(6) would, as determined by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease; or

(7) must be absent from duty for purposes relating to child adoption, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required; and other activities necessary to allow the adoption to proceed.

d. Entitlement to Use Sick Leave for Family Care and Bereavement Purposes

(1) The use of sick leave is authorized to care for or attend to a family member having a condition, which, if the family member were an employee, would justify the use of sick leave. Sick leave is also authorized to make arrangements related to the death and funeral of a family member. "family member" is defined as follows:

(a) spouse and parents-in-law;

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- (b) children, including adopted children, and their spouses;
- (c) parents;
- (d) brothers and sisters and their spouses; and
- (e) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

(2) Limit on Amount of Sick Leave Used for Family Care and Bereavement

(a) The basic limit for full-time employees for family care or bereavement is 40 hours per year. An additional 64 hours may be used each year if the employee maintains a balance of at least 80 hours of sick leave in his or her account. Sick leave for family care or bereavement purposes may not exceed 104 hours during any calendar year.

(b) For purposes of family care or bereavement, the employee must have a minimum balance of 80 hours sick leave to use more than the 40 hour basic limit (e.g., if an employee with a balance of 115 hours uses 40 hours for family care, the employee has a balance of 75 hours; the employee could use no more sick leave for family care or bereavement until the balance again exceeds 80 hours, unless the request occurs in the subsequent leave year).

(c) The base limit for part-time employees or employees working varied hours or tours of duty equals the average number of hours in the employee's scheduled weekly tour of duty. Additional sick leave, up to the amount accrued during the leave year, may be used if the employee's sick leave balance doesn't fall below twice the base limit (e.g., a 20-hour per week part-time employee earns 52 hours of sick leave per year). The base entitlement is 20 hours. An additional 32 hours may be used so long as the employee retains a balance of at least 40 hours following its use.

(d) Only the initial 40 hours of sick leave (or a proportional amount for an employee with a part-time or uncommon tour of duty) may be advanced to an employee for family care and bereavement purposes. Sick leave may not be advanced to allow an employee to meet the minimum balance required for sick leave usage in excess of the base entitlement.

(e) An employee who is incapacitated as a result of severe depression or emotional distress due to the death of a family member continues to be entitled to sick leave for his or her own illness. Leave for such purpose is not charged against the annual limit that can be used for leave under these provisions.

e. Entitlement to use Sick Leave for Care of a Family Member with a Serious Health Condition

(1) An employee who is caring for a family member with a serious health condition may use up to a total of 480 hours of sick leave (or, in the case of a part-time employee or an employee with an uncommon tour of duty, an amount of sick leave equal to 12 times the average number of hours in his or her scheduled tour of duty each week) during a leave year. Entitlements for use of sick leave to care for a family member or bereavement are cumulative. If an employee has used any leave for family care purposes described under other subsections of paragraph (2) of this section, those hours are subtracted from the maximum of 480 hours.

(2) The 80 hour minimum sick leave balance described in paragraph 2.d.(2)(b) and the advance sick leave restriction identified in paragraph 2.d.(2)(d) above applies.

(3) The term serious health condition means an illness, injury, impairment or physical or mental condition that involves inpatient care in a medical care facility or conditions requiring circumstances described in 5 CFR 630.1202. The term serious health condition does not include routine physical, eye, or dental examinations or other short-term conditions for which treatment and recovery are very brief as detailed in 5 CFR 630.1202.

(4) A written medical certificate issued by the health care provider of the patient (employee, spouse, child, or parent of the employee, as appropriate), documenting the serious health condition, must be provided by the employee as detailed in 5 CFR 630.1207

f. Sick Leave for Adoption

(1) An employee may use sick leave for purposes relating to child adoption. These provisions do not apply to the placement of a child for foster care.

(2) Sick leave is appropriate only for activities necessary to allow adoption to proceed. Once the child is placed with the adoptive parent(s), sick leave may not be used by the adoptive parent(s) for the purpose of bonding. However, the use of available annual leave or LWOP is appropriate for such purposes. When requested, employees are entitled under the Family & Medical Leave Act (FMLA) to request a maximum of 12 work weeks of unpaid in any 12 month period of time for adoption purposes. An employee may elect to substitute annual leave and/or sick leave, consistent with current laws and Office of Personnel Management (OPMs) regulations for using annual and sick leave, for any unpaid leave under the FMLA.

g. Communicable Disease. If a health care provider determines that an employee's exposure to a communicable disease would jeopardize the health of other employees by his/her presence on the job, the employee is entitled to use sick leave even though the employee is not actually incapacitated. Sick leave used for such purposes is not charged against the maximum amount of sick leave allowable per year for the care of a family member. On the other hand, when the employee's exposure to a disease does not pose a threat to the health of other employees, as determined by a health care provider, any sick leave used by the employee for care of a family

member is subject to the annual limit. The term health care provider has the same meaning as that in 5 CFR 630.1202. The supervisor may require medical documentation.

h. Request and Approval of Sick Leave

(1) Requesting Sick Leave

(a) When incapacitation or illness of the employee or a family member prevents an employee from reporting to work, the employee should request leave as soon as possible but no later than 2 hours after the start of their work hours or shift, except for compelling reasons, unless other arrangements have been negotiated locally. Rotating personnel whose duties require one-to-one relief will request leave prior to the start of their regularly scheduled work hours or shift, except for compelling reasons. Employees must provide an estimate of when they will return to duty. If the absence extends beyond the estimated time, the employee must again notify the supervisor or other designated official within 2 hours after the estimated time has passed that the employee will be out longer than expected and request additional leave. Failure to keep the supervisor informed may form the basis for charging the employee as AWOL. Any information given to the supervisor in conjunction with a sick leave request is always subject to verification before final approval is given.

(b) Except in emergency situations, employees should request sick leave in advance for medical, dental or optical examinations or treatments, or risk disapproval. Whenever possible, an employee must request advance approval for sick leave for family care, bereavement and adoption.

(2) Approving Sick Leave

(a) For absences of more than 3 workdays, sick leave should be supported by a medical certificate. However the circumstances surrounding the absence are such that management determines it does not require medical certification, the employee's statement explaining the nature of the illness may be accepted in lieu of a medical certificate at the discretion of the supervisor.

(b) When illness of an employee or a family member occurs within a period of annual leave, the period of illness may be charged to sick leave, and the charge to annual leave reduced accordingly. Application for substitution of sick leave for annual leave must be made immediately upon returning to duty and substantiated in the same manner as any other request for sick leave.

(c) Sick leave may not be refused to an employee who requests it and provides administratively acceptable evidence of illness or treatment. However, approval of sick leave is discretionary when any of the following exists:

1. the employee fails to provide administratively acceptable evidence of illness or treatment;

2. abuse or fraud is suspected or evident;
3. the request is for routine examinations or treatment and an emergency work situation exists; or
4. the employee has no accrued sick leave.

(3) Dealing with Potential Abuse

(a) A supervisor may require medical documentation for any period of absence when there is reason to suspect that sick leave is being abused. In such cases, the employee may be advised in writing that because of a questionable sick leave record or letter of requirement, a medical certificate will be required to support any future granting of sick leave regardless of duration. Failure to comply with the requirement may result in the absence being charged to AWOL for which an employee may be disciplined.

(b) In cases of substantiated abuse, requests for sick leave for the time frame may be denied and the time charged to AWOL, which will result in a loss of pay for the period involved. In addition, disciplinary action may be initiated. Before charging an employee's absence to AWOL or initiating disciplinary action, the HRO should be consulted for advice and guidance.

(c) Under no circumstances should an application for sick leave that is disapproved because of failure to provide required proof be charged to LWOP. LWOP is an approved non-pay status absence granted to an employee who is absent due to sickness when there is insufficient sick or annual leave to cover the absence. LWOP is not a disciplinary offense and cannot be used to form the basis for disciplinary action.

i. Advanced Sick Leave

(1) Conditions Governing Approval of Advanced Sick Leave

(a) Full-time employees whose appointments are not limited to 1 year or less may be granted advanced sick leave in an amount not to exceed 240 hours (30 days). Part-time employees may be advanced up to the amount accruable in a 2 year period. An employee serving under a limited appointment may be advanced sick leave up to the total they would earn during the term of their appointment. In the case of firefighters who work an uncommon tour of duty, advanced sick leave restrictions will be based on their sick leave accrual rate. HRO should be consulted regarding advanced sick leave determinations for firefighters.

(b) Advances are to be limited to instances of serious disability or ailments and only with medical certification.

(c) Sick leave may be advanced for family care, bereavement or adoption. Such leave, however, should not exceed the amount of leave the employee can use for these purposes. For

example, there would be no authority to advance sick leave for family care or bereavement if the employee had already used his or her leave year maximum (e.g., 104 hours).

(d) The approving authority should have reasonable assurance that the employee will return to duty. Payment of advanced sick leave will cease if circumstances warrant its termination.

(e) Sick leave should not be advanced to employees for whom corrective action is being taken as a result of leave abuse.

(2) Procedures for Requesting and Approving Advanced Sick Leave. Advanced sick leave must be requested in writing (see Appendix H), to the immediate supervisor or designated official. In the case of an employee's extended illness or incapacitation, the request must be supported by a medical certificate signed by an appropriate health care provider stating the projected period of absence and certifying that the employee is incapacitated for duty. Sick leave may be advanced to employees in deserving cases of serious disability ailments when the exigencies of the situation so require, subject to the following conditions. Care must be exercised to insure that only the proper amount of sick leave is authorized. If the supervisor or designated official approves he/she must endorse and forward OPM Form 71 to the servicing payroll office. (Note: Advanced sick leave is considered a recoverable debt due the United States Government. If an employee is separated before the leave is earned (other than for disability retirement, separation because of disability, or death), the agency may resort to administrative means of recovering the outstanding value of the leave from any pay due, including monies in the employee's retirement fund.)

(3) Advanced annual leave will not be granted for absences otherwise chargeable to sick leave. Consideration should be given to requiring the employee to use any annual leave that might otherwise be forfeited. However, liquidation of advanced sick leave by annual leave is not permitted at the end of the leave year to avoid forfeiture of annual leave. "At the end of the leave year" is interpreted to be any time within the last 3 pay periods of the leave year, since under normal conditions annual leave must be scheduled before the last three pay periods to avoid forfeiture.

j. Impact on Leave Transfer Programs. Sick leave can be used to care for a family member, so it must be counted as "available paid leave" when determining an employee's eligibility to become a leave recipient for a family member's medical emergency. Once approved as a leave recipient, the employee must use available sick leave before using donated leave.

k. FMLA

(1) Employees are entitled to a total of up to 12 work weeks of unpaid leave during any 12-month period for one or more of the following reasons:

(a) the birth and after care of a son or daughter of the employee;

- (b) the placement of a son or daughter with the employee for adoption or foster care;
 - (c) the care of a spouse, son, daughter, or parent of the employee for a serious health condition; or
 - (d) a serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.
- (2) An employee may elect to substitute accrued sick or annual leave for unpaid FMLA leave, consistent with the current law and regulation governing the use of sick leave (see 5 CFR 630 Subpart L).
- (3) If a husband and wife both work for the same command/activity, they are limited to a total of 12 weeks of leave in a 12 month period combined.